

**PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED**

■ 1. The authority citation for section 41 continues to read as follows:

**Authority:** 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681–795 through 2681–801; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458, as amended by section 546 of Pub. L. 109–295).

■ 2. Section 41.122 is revised to read as follows:

**§ 41.122 Revocation of visas.**

(a) *Grounds for revocation by consular officers.* A consular officer, the Secretary, or a Department official to whom the Secretary has delegated this authority is authorized to revoke a nonimmigrant visa at any time, in his or her discretion.

(b) *Provisional revocation.* A consular officer, the Secretary, or any Department official to whom the Secretary has delegated this authority may provisionally revoke a nonimmigrant visa while considering information related to whether a visa holder is eligible for the visa. Provisional revocation shall have the same force and effect as any other visa revocation under INA 221(i).

(c) *Notice of revocation.* Unless otherwise instructed by the Department, a consular officer shall, if practicable, notify the alien to whom the visa was issued that the visa was revoked or provisionally revoked. Regardless of delivery of such notice, once the revocation has been entered into the Department's Consular Lookout and Support System (CLASS), the visa is no longer to be considered valid for travel to the United States. The date of the revocation shall be indicated in CLASS and on any notice sent to the alien to whom the visa was issued.

(d) *Procedure for physically canceling visas.* A nonimmigrant visa that is revoked shall be canceled by writing or stamping the word "REVOKED" plainly across the face of the visa, if the visa is available to the consular officer. The failure or inability to physically cancel the visa does not affect the validity of the revocation.

(e) *Revocation of visa by immigration officer.* An immigration officer is authorized to revoke a valid visa by physically canceling it in accordance with the procedure described in paragraph (d) of this section if:

- (1) The alien obtains an immigrant visa or an adjustment of status to that of permanent resident;
- (2) The alien is ordered excluded from the United States under INA 236, as in

effect prior to April 1, 1997, or removed from the United States pursuant to INA 235;

(3) The alien is notified pursuant to INA 235 by an immigration officer at a port of entry that the alien appears to be inadmissible to the United States, and the alien requests and is granted permission to withdraw the application for admission;

(4) A final order of deportation or removal or a final order granting voluntary departure with an alternate order of deportation or removal is entered against the alien;

(5) The alien has been permitted by DHS to depart voluntarily from the United States;

(6) DHS has revoked a waiver of inadmissibility granted pursuant to INA 212(d)(3)(A) in relation to the visa that was issued to the alien;

(7) The visa is presented in connection with an application for admission to the United States by a person other than the alien to whom the visa was issued;

(8) The visa has been physically removed from the passport in which it was issued; or

(9) The visa has been issued in a combined Mexican or Canadian B–1/B–2 visa and border crossing identification card, and the immigration officer makes the determination specified in § 41.32(c) with respect to the alien's Mexican citizenship and/or residence or the determination specified in § 41.33(b) with respect to the alien's status as a permanent resident of Canada.

**PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED**

■ 3. The authority citation for section 42 continues to read as follows:

**Authority:** 8 U.S.C. 1104 and 1182; Pub. L. 105–277; Pub. L. 108–449; 112 Stat. 2681–795 through 2681–801; The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at the Hague, May 29, 1993), S. Treaty Doc. 105–51 (1998), 1870 U.N.T.S. 167 (Reg. No. 31922 (1993)); The Intercountry Adoption Act of 2000, 42 U.S.C. 14901–14954, Pub. L. 106–279.

■ 4. Section 42.82 is revised to read as follows:

**§ 42.82 Revocation of visas.**

(a) *Grounds for revocation by consular officers.* A consular officer, the Secretary, or any Department official to whom the Secretary has delegated this authority is authorized to revoke an immigrant visa at any time, in his or her discretion.

(b) *Provisional revocation.* A consular officer, the Secretary, or any Department official to whom the Secretary has delegated this authority may provisionally revoke an immigrant visa while considering information related to whether a visa holder is eligible for the visa. Provisional revocation shall have the same force and effect as any other visa revocation under INA 221(i).

(c) *Notice of revocation.* Unless otherwise instructed by the Department, a consular officer shall, if practicable, notify the alien to whom the visa was issued that the visa was revoked or provisionally revoked. Regardless of delivery of such notice, once the revocation has been entered into the Department's Consular Lookout and Support System (CLASS), the visa is no longer to be considered valid for travel to the United States. The date of the revocation shall be indicated in CLASS and on any notice sent to the alien to whom the visa was issued.

(d) *Procedure for physically canceling visas.* An immigrant visa that is revoked shall be canceled by writing or stamping the word "REVOKED" plainly across the face of the visa, if the visa is available to the consular officer. The failure or inability to physically cancel the visa does not affect the validity of the revocation.

Dated: April 18, 2011.

**Janice L. Jacobs,**

*Assistant Secretary for Consular Affairs,*  
*Department of State.*

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**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**32 CFR Part 199**

[Docket ID: DOD–2011–HA–0029; RIN 0720–AB48]

**Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Young Adult**

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Interim final rule with comment period.

**SUMMARY:** This interim final rule implements Section 702 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (NDAA for FY11). It establishes the TRICARE Young Adult (TYA) program to provide an extended medical coverage opportunity to most unmarried children under the age of 26 of uniformed services sponsors. The TRICARE Young

Adult program is a premium-based program.

**DATES:** This interim final rule is effective April 27, 2011. Written comments received at the address indicated below by June 27, 2011 will be considered and addressed in the final rule.

**ADDRESSES:** You may submit comments, identified by docket number and or RIN number and title, by any of the following methods: Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160. Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from dependents of the public is to make these submissions available for public viewing on the Internet at <http://regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mark Ellis, TRICARE Management Activity, TRICARE Policy and Operations Directorate, telephone (703) 681-0039. Questions regarding payment of specific claims under the TRICARE allowable charge method should be addressed to the appropriate TRICARE contractor.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction and Background**

The purpose of this interim final rule is to establish the TRICARE Young Adult program implementing Section 702 of the Ike Skelton NDAA for FY 2011 (Pub. L. 111-383) to provide medical coverage to unmarried children under the age of 26 who no longer meet the age requirements for TRICARE eligibility (age 21, or 23 if enrolled in a full-time course of study at an institution of higher learning approved by the Secretary of Defense), and who are not eligible for medical coverage from an eligible employer-sponsored plan (as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986). If qualified, they can purchase TRICARE Standard/Extra or TRICARE Prime benefits coverage. The particular TRICARE plan available depends on the military sponsor's eligibility and the availability of the TRICARE plan in the dependent's geographic location.

**II. Provisions of the Rule Regarding the TRICARE Young Adult Program**

A. *Establishment of the TRICARE Young Adult Program* (paragraph 199.26(a)). This paragraph describes the nature, purpose, statutory basis, scope, and major features of TRICARE Young Adult, a full cost, premium-based medical coverage program made available for purchase worldwide. TYA is similar to young adult coverage under the Patient Protection and Affordable Care Act, but reflects a number of differences between TRICARE and typical civilian health care plans. Among these is that TYA is a full cost premium based program; it is limited to unmarried dependent children; and the dependent child must not be eligible for medical coverage from an eligible employer-sponsored plan (an exclusion that does not expire on January 1, 2014, but is permanent). TRICARE Young Adult is codified in Title 10, United States Code, Section 1110b.

The major features of the program include making coverage available for purchase at a premium which will represent the full cost, including reasonable administrative costs, as determined on an appropriate actuarial basis for coverage. There will be various premiums depending on whether the dependent's sponsor is active duty, retired or eligible under another plan such as TRICARE Reserve Select or TRICARE Retired Reserve, and the adult dependent's health coverage—TRICARE Standard or, for those eligible and where available, TRICARE Prime. The rules and procedures otherwise outlined in Part 199 of 32 CFR relating to the operation and administration of the TRICARE program based on the sponsor's status and health coverage plan will apply for cost-shares, deductibles, and catastrophic caps upon purchasing TRICARE Young Adult coverage. Young adult dependents of members on active duty for more than 30 days are eligible for benefits under the TRICARE ECHO program under section 199.5 of this Part.

The TRICARE Dental Program (§ 199.13 of this Part) and the TRICARE Retiree Dental Program (§ 199.22 of this Part) are not included as part of TYA.

Under TRICARE Young Adult, qualified young adult dependents may purchase individual TRICARE coverage by submitting a completed request in the appropriate format along with an initial payment of the applicable premium at the time of enrollment. When coverage becomes effective, a TRICARE Young Adult purchaser receives the TRICARE benefits according to the rules governing the

TRICARE program that the enrollee qualified for and selected based on the uniformed services sponsor's status (active duty, retired, Selected Reserve, or Retired Reserve) and the availability of a desired plan in his or her geographic location. The rules and procedures otherwise outlined in the TRICARE Regulation (Part 199) relating to the operation and administration of the TRICARE programs will apply for cost-shares, deductibles, and catastrophic caps upon purchasing TRICARE Young Adult coverage. The young adult dependent's cost-shares, deductibles, and catastrophic caps will be based on the sponsor's status (active duty, retired, Selected Reserve, or Retired Reserve) and whether the dependent has purchased TRICARE Standard/Extra or Prime coverage. TRICARE Young Adult dependents are provided access priority for care in military treatment facilities based on their uniformed services sponsor's status and the selection of health plan.

The Continued Health Care Benefits Program (see § 199.20) shall be made available to all young adult dependents after aging out of the TRICARE Young Adult program or who otherwise lose their eligibility for the TRICARE Young Adult program.

B. *Qualifications for TYA coverage* (paragraph 199.26(b)). This paragraph defines the statutory conditions under which unmarried children qualify as young adult dependents under the TRICARE Young Adult program. To qualify as a young adult dependent, the dependent must be under the age of 26, not be otherwise eligible for another TRICARE program, and not be eligible for medical coverage from an eligible employer-sponsored plan (as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986). The dependents' sponsor is responsible for keeping the Defense Enrollment Eligibility Reporting System (DEERS) current with eligibility data through the sponsor's Service personnel office. Using information from the DEERS, the managed care support contractors have the responsibility to validate a dependent's qualifications to purchase TRICARE Young Adult coverage.

C. *TRICARE Young Adult premiums* (paragraph 199.26(c)). Qualified young adult dependents are charged premiums for coverage under TRICARE Young Adult that represent the full cost of providing TRICARE benefits under this program, including the reasonable costs of administration of the program. The total annual premium amounts shall be determined by the Assistant Secretary of Defense for Health Affairs (ASD(HA)) using an appropriate actuarial basis and

are established and updated annually, on a calendar year basis, by the ASD(HA) for qualified young adult dependents.

#### TRICARE YOUNG ADULT PREMIUMS— CALENDAR YEAR 2011

TRICARE program	Monthly premium
TRICARE Standard/Extra Plans	\$186
TRICARE Prime Plans .....	213

A premium shall be charged for each individual qualified young adult dependent regardless of whether a sponsoring member has more than one young adult dependent child who qualifies or purchases coverage under the TRICARE Young Adult program. The cost shares for TRICARE Standard/Extra or Prime programs in which the adult child is enrolled shall be based on the status of the dependent's sponsor. Because of the differences in cost-shares among the programs and status of the sponsor, there will be a different premium for TRICARE Standard and TRICARE Prime. Premiums are to be paid monthly. The monthly rate for each month of a calendar year is one-twelfth of the annual rate for that calendar year.

The appropriate actuarial basis used for calculating premium rates shall be one that most closely approximates the actual cost of providing care to the same demographic population as those enrolled in TRICARE Young Adult as determined by the ASD(HA). TRICARE Young Adult premiums shall be based on the actual costs of providing benefits to TRICARE Young Adult dependents during the preceding years if the population of Young Adult dependents enrolled in TRICARE Young Adult is large enough during those preceding years to be considered actuarially appropriate. Until such time that actual costs from those preceding years become available, TRICARE Young Adult premiums shall be based on the actual costs during the preceding calendar years for providing benefits to the population of dependents over the age 21 up to age of 26 in order to make the underlying group actuarially appropriate. An adjustment may be applied to cover overhead costs for administration of the program by the government. Additionally, premium adjustments may be made to cover the prospective costs of any significant program changes.

D. *Procedures* (paragraph 199.26(d)). The Director, TRICARE Management Activity (TMA) will establish procedures for administration of TYA. These will include procedures to

purchase individual coverage, such as a request in an approved format, along with an initial payment of the applicable premium. Applicants must also certify that they meet the statutory qualifications to purchase coverage under this program. Additional procedures will be established for a qualified young adult dependent to purchase TRICARE Young Adult coverage with an effective date immediately following the last effective date of coverage under which they previously qualified in another TRICARE program.

There will be open enrollment so that a qualified young adult dependent may purchase TRICARE Young Adult coverage at any time. The effective date of coverage for TRICARE Standard will coincide with the first day of a month after the date the application and required payment is received. The effective date of coverage for TRICARE Prime will be first day of the second month after the month in which application and required payment is received. There will be a limited period for retroactive coverage. A qualified young adult dependent may elect to start coverage under the TRICARE Standard plan effective with the statutory start date of January 1, 2011, if the dependent was eligible as of that date. If retroactive coverage is elected then retroactive premiums must be paid back to the statutory start date of January 1, 2011. If no retroactive coverage is elected or the retroactive premiums are not paid within the time prescribed, then coverage will not be retroactive and coverage will apply only prospectively beginning on the first day of the month after the date of the application. There shall be no retroactive coverage offered under any TRICARE Prime plan. No purchase of retroactive coverage may take place after September 30, 2011.

With respect to termination of coverage, a loss of eligibility or entitlement for medical benefits of the sponsor will result in termination of coverage for the dependent's TRICARE Young Adult coverage on the same date as the sponsor, unless otherwise authorized. Upon the death of an active duty sponsor, young adult age dependents may purchase TYA coverage up to the age of 26. If a Selected Reserve (Sel Res) or Retired Reserve member ends TRICARE Reserve Select (TRS) or TRICARE Retired Reserve (TRR) coverage, respectively, eligibility for the young adult dependent to purchase coverage under TRICARE Young Adult also ends. If a Sel Res sponsor dies while enrolled in TRS, the otherwise eligible adult age dependent

can purchase TYA coverage up to 6 months after the death of the sponsor. If a Retired Reserve sponsor dies while enrolled in TRR, the otherwise eligible young adult dependent may continue to purchase TYA coverage until the date on which the deceased sponsor would have turned age 60. If the Retired Reserve sponsor was not enrolled in TRR at the time of death, there is no eligibility to purchase TYA coverage until the sponsor would have turned age 60. At that point, the young adult dependent qualifies as a dependent of a deceased retired sponsor and can purchase coverage up to the age of 26.

Coverage will terminate whenever a dependent ceases to meet the qualifications for the program. Claims will be denied effective with the termination date. In addition, covered dependents may terminate coverage at any time by submitting a completed request in the appropriate format. Dependents whose coverage under TRICARE Young Adult terminates for failure to pay premiums in accordance with program requirements will not be allowed to purchase coverage again under TRICARE Young Adult for a period of one year following the date of their coverage termination. This ineligibility period shall be known as a "lockout" period. A request for a waiver of the "lockout" period may be granted by the Director, TRICARE Management Activity, based on extraordinary circumstances beyond the control of the adult dependent which resulted in inability to make payments in accordance with program requirements. The Director may allow a 90-day grace period for payment to be made. However, if payment is not made by the 90th day, then coverage will be deemed to have terminated as of the last day of the month in which an appropriate payment was made and no claims may be paid for care rendered after the date of termination. Upon termination of eligibility to purchase TYA coverage, qualified dependents may purchase coverage under the Continued Health Care Benefit Program for up to 36 months except if locked out of TYA. Upon application and payment of appropriate premiums, a young adult dependent who has already purchased coverage under any of the plans offered under TYA may change to another TRICARE program for which the dependent is eligible. Eligibility is based on the sponsor's status and the dependent's geographic location.

E. *Preemption of State laws* (paragraph 199.26(e)). This paragraph provides that the preemptions of State and local laws established for the TRICARE program also apply to

TRICARE Young Adult. Any State or local law or regulation pertaining to health insurance, prepaid health plans, or other health care delivery, administration, and financing methods is preempted and does not apply in connection with TRICARE Young Adult.

F. *Administration* (paragraph 199.26(f)). This paragraph provides that the Director, TRICARE Management Activity, may establish other administrative processes and procedures necessary for the effective administration of TRICARE Young Adult.

### III. Regulatory Procedures

Executive Order 12866 requires certain regulatory assessments for any significant regulatory action that would result in an annual effect on the economy of \$100 million or more, or have other substantial impacts. The Congressional Review Act establishes certain procedures for major rules, defined as those with similar major impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation that would have significant impact on a substantial number of small entities. This interim final rule will not have an impact on the economy greater than \$100 million annually. Further, it will not have a major impact as that term is used under the Congressional Review Act nor will have a significant impact on a substantial number of small entities. This rule, however, does address novel policy issues relating to implementation of a new medical benefits program for certain dependents of the uniformed services. Thus, this rule has been reviewed by the Office of Management and Budget under E.O. 12866.

#### *Paperwork Reduction Act of 1995*

Section III of this interim final rule contains information collection requirements. DoD has submitted the following proposal to OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated

collection techniques or other forms of information technology.

*Title:* TRICARE Young Adult Application.

*Type of Request:* Revision.

*Number of Respondents:* 60,000.

*Responses per Respondent:* Estimated responses are on average two per respondent during the term of their TRICARE Young Adult coverage. Respondents will complete the application upon applying for, changing, or terminating their TRICARE Young Adult coverage. Not all respondents will change their coverage, and others may choose to let their coverage lapse or stop paying premiums instead of submitting a termination request.

*Annual Responses:* 120,000.

*Average Burden Per Response:* The public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

*Annual Burden Hours:* 30,000 hours.

*Needs and Uses:* To evaluate eligibility of young adult dependents applying for extended dependent coverage under the TRICARE Young Adult program (10 U.S.C. 1110b).

*Affected Public:* Young adult dependents applying for, changing, or terminating their extended medical coverage under the TRICARE Young Adult program.

*Frequency:* Whenever the respondent wishes to apply for extended dependent coverage under the TRICARE Young Adult program, when the respondent wishes to change their coverage under the TRICARE Young Adult program, or when the respondent wishes to terminate their coverage under the TRICARE Young Adult program.

*Respondent's Obligation:* Required to obtain or retain benefits. Young adult dependents wishing to purchase extended dependent coverage will complete the application to apply for, change, or terminate medical coverage under the TRICARE Young Adult program. Respondents will complete the requested information. Disclosure is voluntary; however, failure to provide the information will result in the denial of the application.

#### *OMB Desk Officer*

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Sehra at the Office of Management and Budget, DoD Desk Officer, Room 10102, New Executive

Office Building, Washington, DC 20503, with a copy to the TRICARE Management Activity, 5111 Leesburg Pike, Suite 810A, Falls Church, VA 22041. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

You may also submit comments, identified by docket number and title, by the following method:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to TRICARE Management Activity, 5111 Leesburg Pike, Suite 810A, Falls Church, VA 22041, Mark Ellis, (703) 681-0039.

#### *Additional Regulatory Procedures*

We have examined the impact(s) of the interim final rule under Executive Order 13132 and it does not have policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The preemption provisions in the rule conform to law and long-established TRICARE policy. Therefore, consultation with State and local officials is not required.

This rule is being published as an interim final rule with comment period as an exception to our standard practice of first soliciting public comment under a proposed rule, in order to comply with the requirements of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Public Law 111-383, Section 702, which was enacted on January 7, 2011. This section provides "the amendments by this section shall take effect on January 1, 2011. The Secretary of Defense shall prescribe an interim final rule with respect to such amendments, effective not later than January 1, 2011." In order to provide coverage as soon as possible consistent

with statutory requirement, and as proscribed by the provision, the ASD(HA) has determined that following the standard practice is unnecessary, impractical, and contrary to the public interest. Public comments are welcome and will be considered before publication of the final rule.

#### List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

#### PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

**Authority:** 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.2(b) is amended by adding in alphabetical order the definition of “TRICARE Young Adult” to read as follows:

#### § 199.2 Definitions.

\* \* \* \* \*

(b) \* \* \*

*TRICARE Young Adult.* The program authorized by and described in § 199.26 of this part.

\* \* \* \* \*

■ 3. Section 199.26 is added to read as follows:

#### § 199.26 TRICARE Young Adult.

(a) *Establishment.* The TRICARE Young Adult (TYA) program offers the medical benefits provided under the TRICARE programs to qualified unmarried adult children who do not otherwise have eligibility for medical coverage under a TRICARE program at age 21 (23 if enrolled in a full-time course of study at an institution of higher learning approved by the Secretary of Defense) and are under age 26.

(1) *Purpose.* As specified in paragraph (c) of this section, TRICARE Young Adult is a premium-based health plan that is available for purchase by any qualified adult child as that term is defined in paragraph (b) of this section. The TRICARE Young Adult program allows a qualified adult child to purchase TRICARE coverage.

(2) *Statutory authority.* TRICARE Young Adult is authorized by 10 U.S.C. 1110b.

(3) *Scope of the program.* TRICARE Young Adult is geographically applicable to the same extent as specified in section 199.1(b)(1) of this part.

(4) *Major features of TRICARE Young Adult.* (i) *TRICARE rules applicable.*

(A) Unless specified in this section or otherwise prescribed by the ASD (HA), provisions of this Part apply to TRICARE Young Adult.

(B) The TRICARE Dental Program (§ 199.13 of this part) and the TRICARE Retiree Dental Program (§ 199.22 of this part) are not covered under TRICARE Young Adult.

(C) TRICARE Standard is available to all TYA-eligible young adult dependents. TYA enrollees in TRICARE Standard may use TRICARE Extra (under § 199.17(e) of this Part).

(D) TRICARE Prime is available to TYA-eligible young adult dependents of sponsors to the same extent it is available to those sponsors' dependents who do not exceed the age requirements of § 199.3 of this part, provided that TRICARE Prime is available in the geographic location where the TYA enrollee resides. This applies to TYA-eligible:

(1) Dependents of sponsors on active duty for more than 30 days or covered by TAMP (under § 199.3(e));

(2) Dependents of sponsors who are retired members eligible for TRICARE Prime; and

(3) Survivors of members who died while on active duty for more than 30 days or while receiving retired or retainer pay.

(i) *Premiums.* TRICARE Young Adult coverage is a premium based program that an eligible young adult dependent may purchase. There is only individual coverage, and a premium shall be charged for each dependent even if there is more than one qualified dependent in the military sponsor's family that qualifies for TRICARE Young Adult coverage. Dependents qualifying for TRICARE Young Adult status can purchase individual TRICARE Standard or Prime coverage (as applicable) according to the rules governing the TRICARE program for which they are qualified on the basis of their military sponsor's status (active duty, retired, Selected Reserve, or Retired Reserve) and the availability of a desired plan in their geographic location. Premiums shall be determined in accordance with paragraph (c) of this section.

(iii) *Procedures.* Under TRICARE Young Adult, qualified dependents under paragraph (b) of this section may purchase individual TRICARE coverage by submitting a completed request in the appropriate format along with an initial payment of the applicable premium. Procedures for purchasing coverage and paying applicable premiums are prescribed in paragraph (d) of this section.

(iv) *Benefits.* When their TRICARE coverage becomes effective, qualified beneficiaries receive the benefit of the TRICARE program that they selected, including, if applicable, access to military treatment facilities and pharmacies. TRICARE Young Adult coverage features the per service cost share, deductible and catastrophic cap provisions based on program selected, i.e., the TRICARE Standard/Extra program or the TRICARE Prime program, as well as the status of their military sponsor. Access to military treatment facilities under the system of access priorities in section 199.17(d)(1) of this Part is also based on the program selected as well as the status of the military sponsor. Premiums are not credited to deductibles or catastrophic caps.

(v) *Transition period.* During fiscal year 2011, the TYA program will include only TRICARE Standard program coverage.

(b) *Eligibility for TRICARE Young Adult coverage.*—(1) *Young adult dependent.* A young adult dependent qualifies to purchase TRICARE Young Adult coverage if the dependent meets the following criteria:

(i) Would be a dependent child under section 199.3 of this Part but for exceeding the age limit under that section; and

(ii) Is a dependent under the age of 26; and

(iii) Is not enrolled, or eligible to enroll, for medical coverage in an eligible employer-sponsored health plan as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986; and

(iv) Is not otherwise eligible under section 199.3 of this Part; and

(v) Is not a member of the uniformed services.

(2) The dependents' sponsor is responsible for keeping the Defense Enrollment Eligibility Reporting System (DEERS) current with eligibility data through the sponsor's Service personnel office. Using information from the DEERS, the managed care support contractors have the responsibility to validate a dependent's qualifications to purchase TRICARE Young Adult coverage.

(c) *TRICARE Young Adult premiums.* Qualified young adult dependents are charged premiums for coverage under TRICARE Young Adult that represent the full cost of the program, including reasonable administrative costs, as determined by the ASD(HA) utilizing an appropriate actuarial basis for the provision of TRICARE benefits for the TYA-eligible beneficiary population. Separate premiums shall be established for TRICARE Standard and Prime plans.

There may also be separate premiums based on the uniformed services sponsor's status. Premiums are to be paid monthly. The monthly rate for each month of a calendar year is one-twelfth of the annual rate for that calendar year.

(1) *Annual establishment of rates.*

—(i) TRICARE Young Adult monthly premium rates shall be established and updated annually on a calendar year basis by the ASD(HA) for TRICARE Young Adult individual coverage.

(ii) The appropriate actuarial basis used for calculating premium rates shall be one that most closely approximates the actual cost of providing care to a similar demographic population (based on age and health plans) as those enrolled in TRICARE Young Adult, as determined by the ASD(HA). TRICARE Young Adult premiums shall be based on the actual costs of providing benefits to TYA dependents during the preceding years if the population of TYA enrollees is large enough during those preceding years to be considered actuarially appropriate. Until such time that actual costs from those preceding years become available, TRICARE Young Adult premiums shall be based on the actual costs during the preceding calendar years for providing benefits to the population of similarly aged dependents to make the underlying group actuarially appropriate. An adjustment may be applied to cover overhead costs for administration of the program.

(2) *Premium adjustments.* In addition to the determinations described in paragraph (c)(1) of this section, premium adjustments may be made prospectively for any calendar year to reflect any significant program changes mandated by legislative enactment, including but not limited to significant new programs or benefits.

(d) *Procedures.* The Director, TRICARE Management Activity (TMA), may establish procedures for the following.

(1) *Purchasing coverage.* Procedures may be established for a qualified dependent to purchase individual coverage. To purchase TRICARE Young Adult coverage for effective dates of coverage described below, qualified dependents must submit a request in the appropriate format, along with an initial payment of the applicable premium required by paragraph (c) of this section in accordance with established procedures.

(i) *Continuation coverage.* Procedures may be established by the Director, TRICARE Management Activity for a qualified dependent to purchase TRICARE Young Adult coverage with an effective date immediately following the

date of termination of coverage under another TRICARE program. Application for continuation coverage must be made within 30 days of the date of termination of coverage under another TRICARE program.

(ii) *Open enrollment.* Procedures may be established for a qualified dependent to purchase TRICARE Young Adult coverage at any time. The effective date of coverage will coincide with the first day of a month.

(iii) *Retroactive coverage.* A qualified young adult dependent may elect retroactive TRICARE Standard coverage effective as of January 1, 2011 if dependent was eligible as of that date. In the case of a young adult dependent who was not eligible as of January 1, 2011, but became eligible after that date but prior to the date of enrollment, the young adult dependent may elect retroactive TRICARE Standard coverage effective as of the date of eligibility. If retroactive coverage is elected, retroactive premiums must be paid for the time period between initial eligibility and the date of the election. If no retroactive coverage is elected or the retroactive premiums are not paid within the time prescribed, coverage will not be retroactive and coverage will apply only prospectively under the procedures set forth for open enrollment. No purchase of retroactive coverage may take place after September 30, 2011. Coverage under TRICARE Prime may not be made retroactively.

(2) *Termination of coverage.* (i) Loss of eligibility or entitlement for coverage by the sponsor will result in termination of the dependent's TRICARE Young Adult coverage unless otherwise specified. The effective date of the sponsor's loss of eligibility for care will also be the effective date of termination of benefits under the TYA program unless specified otherwise.

(A) *Active Duty Military Sponsor.* TYA coverage ends effective the date of military sponsor's separation from military service. Upon the death of an active duty sponsor, dependents eligible for Transitional Survivor coverage may purchase TYA coverage up to the age of 26.

(B) *Selected Reserve (Sel Res) Sponsor.* Sel Res sponsors must be currently enrolled in TRICARE Reserve Select (TRS) before a young adult dependent is eligible to purchase TYA. If TRS coverage is terminated by the sponsor, TYA coverage ends effective the same termination date as the sponsor. If the Sel Res sponsor dies while enrolled in TRS, the young adult dependent is eligible to purchase TYA coverage for six months after the date of

death of the Sel Res sponsor, if otherwise eligible.

(C) *Retired Reserve Sponsor.* Retired Reserve members not yet eligible for retired or retainer pay must be enrolled in TRICARE Retired Reserve (TRR) to establish TYA eligibility for their young adult dependents. If TRR coverage is terminated by the sponsor, the TYA coverage for the young adult dependent ends effective the same date as the sponsor's termination of coverage under TRR. If the retired reserve sponsor dies while enrolled in TRR, the young adult dependent may continue to purchase TYA coverage until the date on which the deceased member would have attained age 60, as long as otherwise eligible. If the Retired Reserve member dies and is not enrolled in TRR, there is no eligibility for TYA coverage until the sponsor would have reached age 60. On the date the military sponsor would have reached 60, a young adult dependent who otherwise qualifies for TYA qualifies as a dependent of a deceased retired sponsor and can purchase TYA coverage.

(ii) Failure of a young adult dependent to maintain the eligibility qualifications in paragraph (b) of this section shall result in the termination of coverage under the TYA program. The effective date of termination shall be the date upon which the adult young dependent failed to meet any of the requisite qualifications. If a subsequent change in circumstances re-establishes eligibility (such as losing eligibility for an eligible employer-sponsored plan), the young adult dependent may re-enroll for coverage under the TYA program.

(iii) Termination of coverage results in denial of claims for services with a date of service after the effective date of termination.

(iv) Covered dependents may request termination of coverage at any time by submitting a completed request in the appropriate format in accordance with established procedures.

(3) *Lockout.* Dependents whose coverage under TRICARE Young Adult terminates for failure to pay premiums will not be allowed to purchase coverage again under TYA for a period of one year following the effective date of termination. Dependents who are terminated for failure to pay may request a waiver of the lockout from the Director, TRICARE Management Activity if extraordinary circumstances, as determined by the Director, prevented the dependent from being able to pay the premium. The Director may also provide a grace period not to exceed 90 days after the end of the month during which the last full

premium was paid, during which a young adult dependent who would otherwise be subject to a lockout may be reinstated by the payment of all unpaid premiums. After 90 days, any waiver of a lockout by the Director shall allow the young adult dependent to re-enroll but not to receive retroactive coverage.

(4) *Eligibility for the Continued Health Care Benefit Program.* Upon termination of eligibility to purchase TYA coverage, dependents may purchase coverage for up to 36 months through the Continued Health Care Benefit Program under section 199.20 of this Part unless locked out of TYA.

(5) *Changing Coverage.* Upon application and payment of appropriate premiums, qualified dependents already enrolled in and who are current in their premium payments may elect to change to another TRICARE program for which the qualified dependent is eligible based on the sponsor's eligibility and the geographic location of the qualified young adult dependent. The Director, TMA shall establish administrative processes for this change in program enrollment; however, no change shall be effective until the applicable premium has been paid.

(e) *Preemption of State Laws.*—The preemption provisions of § 199.17(a)(7) of this part are applicable to the TYA program.

(f) *Administration.* The Director, TRICARE Management Activity, may establish other processes, policies and procedures for the effective administration of TRICARE Young Adult and may authorize exceptions to requirements of this section, if permitted by law, based on extraordinary circumstances.

Dated: April 22, 2011.

**Patricia L. Toppings,**  
*OSD Federal Register Liaison Officer,*  
*Department of Defense.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0260]

RIN 1625-AA00

#### Safety Zone; Red River

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for

all waters of the Red River in the State of North Dakota, including those portions of the river bordered by Richland, Cass, Traill, Grand Forks, Walsh, and Pembina Counties, plus those in Minnesota South of a line drawn across latitude 46°20'00" N, extending the entire width of the river. This safety zone is needed to protect persons and vessels from safety hazards associated with flooding occurring on the Red River. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative.

**DATES:** This rule is effective in the CFR from April 27, 2011 through 11:59 p.m. on July 15, 2011. This rule is effective with actual notice from 12:01 a.m. on April 8, 2011, until 11:59 p.m. on July 15, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0260 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0260 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Documents will also be available for inspection or copying at Coast Guard Sector Upper Mississippi River, 1222 Spruce Street, Suite 7.103, St. Louis, MO 63103 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or email Lieutenant Commander (LCDR) Scott Stoermer, Sector Upper Mississippi River, Coast Guard at (314) 269-2540 or [Scott.A.Stoermer@uscg.mil](mailto:Scott.A.Stoermer@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a

notice of proposed rulemaking (NPRM) with respect to this rule because it would be contrary to public interest to publish an NPRM as immediate action is necessary to protect the public and property from the dangers associated with flooding emergencies. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying its effective date would be contrary to public interest because immediate action is needed to protect vessels and mariners from the safety hazards associated with flooding emergencies.

#### Basis and Purpose

On April 8, 2011, the Captain of the Port Upper Mississippi River deemed navigation on the Red River unsafe due to severe flooding and has closed navigation on the Red River bordered by Richland, Cass, Traill, Grand Forks, Walsh, and Pembina Counties in North Dakota, extending the entire width of the river. To provide for the safety of the public, the Coast Guard will temporarily restrict access to this section of the Red River while conditions remain dangerous.

#### Discussion of Rule

The Coast Guard is establishing a temporary safety zone for all waters of the Red River in the State of North Dakota, including those portions of the river bordered by Richland, Cass, Traill, Grand Forks, Walsh, and Pembina Counties, plus those in Minnesota South of a line drawn across latitude 46°20'00" N, extending the entire width of the river. Entry into this zone is prohibited to all vessels and persons except those persons and vessels specifically authorized by the Captain of the Port Sector Upper Mississippi River. This rule is effective from 12:01 a.m. April 8, 2011 until 11:59 p.m. July 15, 2011. This temporary safety zone will be enforced while conditions remain dangerous. The Captain of the Port Sector Upper Mississippi River will inform the public through broadcast notice to mariners of all safety zone changes and enforcement periods.

#### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of